

## **REMARKS**

The Office Action dated March 6, 2003 has been received and carefully noted. The amendments to the claims, drawings, and specification, and the following remarks are submitted as a full and complete response thereto. By this Amendment, claims 1, 3-6, 9-15, and 19 have been amended for editorial considerations and to further set forth the invention. Claims 20-21 were previously withdrawn as directed to a non-elected invention. No new matter has been added or amendments made which narrow the scope of any elements of any claims. Accordingly, Claims 1-19 are pending in this application and are respectfully submitted for consideration.

The abstract has been objected to due to certain informalities. To obviate this objection, enclosed herewith on a separate sheet is a new Abstract to replace the original Abstract in its entirety, responsive to this objection. Withdrawal of this objection is hereby respectfully requested. If any additional amendment is necessary, the Examiner is requested to contact Applicant's undersigned representative.

The Office Action also objected to drawings because reference characters 22-24 all referred to a "partition." Applicant submits herewith corrected Figures 1 and 30, responsive to this objection. In particular, Applicant has amended the drawings to identify a partition with reference character 21. Partition 21 has a top section 22, a middle section 23, and a bottom section 24. The specification has also been amended to reflect this amendment to the drawings. Withdrawal of this objection is hereby respectfully requested. If any additional amendment is necessary, the Examiner is requested to contact Applicant's undersigned representative.

Claims 1-19 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite and incomplete. Claim 1, 3-6, 9-15, and 19 are amended to clarify the subject matter. Applicant submits that Claims 1-19 comply with the requirements of 35 U.S.C. § 112 and therefore request that the rejection be withdrawn.

Claims 1-19 have been provisionally rejected under the obvious-type double patenting doctrine over claims 5 and 12 of co-pending Application 09/813,022. Applicant respectfully traverses this rejection, as follows.

Claims 5 and 12 of co-pending Application 09/813,022 identified by the Examiner were cancelled in a amendment filed on February 14, 2003. As such, these claims can no longer form the basis of a provisional rejection.

Consequently, the present invention is not obvious to one of ordinary skill in the art in view of Application 09/813,022.

Claims 14-15, and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Giroux (U.S. Patent 4,230,533), in view of Meili (U.S. Patent 5,964,986) or Meszaros (U.S. Patent 5,935,388). Applicant traverses the rejection and submits that the combination of cited prior art fails to teach or suggest each and every feature recited in the rejected claims.

However, there is no distributor disclosed in Giroux nor is there a collector box or collector laminas. The Office Action recognizes the difference that the present invention has the distributors in Claims 14 and 15. In addition, prior art does not disclose a collector box and a plurality of collector laminas, as claimed in Claim 18.

The Office Action discounts these differences by combining Giroux with Meili for showing the collector and a distributor. In addition, the Examiner combines Giroux with Meszaros for the collector box and collector laminas. Giroux appears to disclose a column, a partition, and a collector for collecting liquid in the column. However, there is no distributor disclosed in Giroux nor is there a collector box or collector laminas. In addition, the Examiner combines Giroux with Meszaros for the collector box and collector laminas. Applicant respectfully traverses this rejection. If any additional amendment is necessary, the Examiner is requested to contact Applicant's undersigned representative.

Further, because the distributor in the present invention has a plurality of <sup>u</sup> channels or a tubular shape, the liquid can be distributed evenly. <sup>u</sup> This is neither taught <sup>not in this</sup> not suggested by the prior art references and is therefore not obvious.

In addition, the plurality of collector laminas disposed on the distributor in Claim 18 of the present invention is not disclosed by the prior art. Further, <sup>u</sup> Claim 18 discloses a collector box for forming a liquid collection gutter along an inner wall of each of said column body and said partition. <sup>u</sup> This feature is also not taught in the prior art and is therefore not obvious. If any additional amendment is necessary, the Examiner is requested to contact Applicant's undersigned representative.

With regard to each of the rejections under §103 in the Office Action, it is also respectfully submitted that the Examiner has not yet set forth a *prima facie* case of obviousness. The PTO has the burden under §103 to establish a *prima facie* case of obviousness. In re Fine, 5 U.S.P.Q.2nd 1596, 1598 (Fed. Cir. 1988). Both the case law

of the Federal Circuit and the PTO itself have made clear that where a modification must be made to the prior art to reject or invalidate a claim under §103, there must be a showing of proper motivation to do so. The mere fact that a prior art reference could arguably be modified to meet the claim is insufficient to establish obviousness. The PTO can satisfy this burden only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references. Id. In order to establish obviousness, there must be a suggestion or motivation in the reference to do so. See also In re Gordon, 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984) (prior art could not be turned upside down without motivation to do so); In re Rouffet, 149 F.3d 1350 (Fed. Cir. 1998); In re Dembiczak, 175 F.3d 994 (Fed. Cir. 1999); In re Lee, 277 F.3d 1338 (Fed. Cir. 2002).

In the Office Action, the Examiner states that it would have been obvious to combine the references so as to accomplish the advantages of the present invention, or to accomplish general advantages not specifically identified within the references. See, e.g., Office Action at pages 6 and 7. This is an insufficient showing of motivation. As such, the rejection under §103 is improper.

In view of the above remarks, the Applicant respectfully submits that each of Claims 1-19 recite subject matter which is neither disclosed nor suggested in the cited prior art. Applicant submits that this subject matter is more than sufficient to render the claimed invention unobvious to a person of ordinary skill in the art. Applicant therefore

requests that each of the pending claims be found allowable, and this application be passed to issue.

If for any reason the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact, by telephone, the Applicant's undersigned attorney at the indicated telephone number to arrange for an interview to expedite the disposition of this application.

In the event this paper is not timely filed, the Applicant respectfully petitions for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account No. 01-2300.

Respectfully submitted,



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Amended Figs. 1 and 30